



**Statement of Kelly Simon, Interim Legal Director
of the American Civil Liberties Union of Oregon**

**Before the Democratic Member Roundtable on
the Deployment of Federal Agents to Portland**

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Congressman Raskin, Members of Congress:

On behalf of the American Civil Liberties Union of Oregon and the ACLU's National office and its more than eight million members, activists, and supporters throughout the country, thank you for inviting me to participate in today's roundtable. My name is Kelly Simon and I am the Interim Legal Director for the ACLU of Oregon.

If you hear nothing else from me today, hear this: Black Lives Matter.

While the nation's attention has been fixed on Portland, police throughout the country and at all levels of government have been shamefully engaged in a concerted attack on the right to dissent, meeting the calls to end racist police brutality with more police brutality. The federal government is adding escalation on top of this escalation.

In my role at ACLU of Oregon, what I have been bearing witness to is nothing short of an unconstitutional nightmare. But putting the legalities of this lawlessness aside for just a moment, what we are seeing is also terrifying. We are seeing crowds of people lawfully exercising their First Amendment rights to demand an end to police brutality and racist policing being met with clouds of tear gas and other chemical weapons. We are seeing those same people shot directly in the head, causing skull fractures, and shot repeatedly in the back, causing large and painful contusions. Those that dare to bear witness are also being shot, pushed, and gassed threatening to suppress the truth about these abuses. People are being drug into unmarked vehicles and swept off the streets with no explanation.

These tactics – anonymous policing, disappearing people through violence or snatch and grab tactics, shows of force – are tactics we have seen federal law enforcement use to intimidate, control and devalue the lives of Black, Brown and Indigenous communities. The Department of Homeland Security's agencies are especially familiar with them. For example, the ACLU of Oregon has filed a complaint on behalf of an Oregonian, Isidro Andrade-Tafolla, who came out of a county courthouse where he was accompanying his wife only to be surrounded by Immigration and Customs Enforcement officers in unmarked vehicles and plain clothes. The ICE officers accused Mr. Andrade-Tafolla of being a person they suspected was in the country without lawful status. The only similarity between Mr. Andrade-Tafolla and that person was the color of his skin: Brown. In the name of national security, these DHS agencies, along with the U.S. Marshalls Service, are terrorizing Oregonians and promising to raise the specter of their militarized violence and intimidation nationwide.

These police tactics have no place in a free society and fly in the face of our country's founding constitutional principles, of freedom of speech, freedom of assembly, freedom of the press, the right to petition our government for redress of grievances, of due process, of a presumption of innocence, of prohibiting unreasonable searches & seizures, of power held by "we the people."



The ACLU has responded with several lawsuits nationwide, including cases in Oregon seeking to prohibit the dispersal and use of force against journalists, legal observers and medics providing aid to injured protesters. And we will continue to defend the rights of protesters in Oregon and beyond against the onslaught of attacks we are seeing.

There are two injuries that continue to stick with me. First, while rendering aid to police-wounded protesters, a medic clearly marked with a red cross was shot in the chest with a tear gas canister. While wearing a bright green National Lawyers Guild legal observer hat and documenting activity in downtown Portland, a federal officer shot a person in the heart with a 40 mm impact munition. This second attack was shortly after a district court judge issued a temporary restraining order prohibiting federal officers from targeting journalists and legal observers, including legal observers in green NLG hats. Where police wear badges, these community members wear severe bruises. These injuries stick with me because they make clear the threat: what is under attack in this country is the heart of our democracy.

Congress must intervene to rein in these abuses with the following actions:

Congress must urge the Department of Justice to appoint a special counsel.

- Congress must urge the Department of Justice to appoint a special counsel to investigate, and if warranted, prosecute any federal criminal violations of constitutional rights in the federal response to protestors in Lafayette Square in Washington, DC, and Portland, Oregon.
- On July 20, the ACLU of Oregon and the ACLU's national office [wrote](#) Attorney General William Barr, asking for the appointment of a special counsel. Rather than immediately appointing a special counsel to investigate, this Administration doubled down on its unconstitutional and likely criminal tactics.

Congress must compel DOJ to produce the agreements between feds and locals in Portland and elsewhere.

- On July 22, as DOJ is criticized for its federal law enforcement response in Portland, OR, the agency [announced](#) plans to [expand](#) Operation Legend and “surge” federal law enforcement in Chicago and Albuquerque to fight “violent crime, using agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Agency; Federal Bureau of Investigation; US Marshals Service, and Department of Homeland Security.
- DOJ [launched](#) Operation Legend just weeks before that on July 8 in Kansas City, MO. On July 29, DOJ formally expanded Operation Legend to Detroit, Milwaukee, and Cleveland. It is not clear under what agreements and authorities these operations are occurring. The role of Department of Homeland Security agents' is especially troubling and unclear.



- Congress should be concerned that federal agents that are deployed to a particular city for Operation Legend may be later used to police protest, federal property, or anything else.

Congress must rein in the tools and tactics used by federal agents to commit civil rights violations.

- In Portland, militarized federal agents have used sharpshooters to maim people, and have deployed military tools and tactics — including sonic weapons, tear gas, and rubber bullets, which have all been used indiscriminately against protesters, medics, journalists, and legal observers, even after the federal court enjoined such violent attacks in a lawsuit filed by the ACLU of Oregon. **Congress must prohibit federal law enforcement from using chemical and less lethal weapons indiscriminately at mass gatherings. Congress must also restrict federal agents' use of surveillance authorities and require federal agents to record any time they take a person into custody.**
- Federal agents operating in Portland are also wearing no or obscured insignia, names, badge numbers, or any other identification. They are driving unmarked vehicles that have swept away protesters to undisclosed locations. **Congress must require that federal agents be identifiable by first and last name, agency, and badge number and that agency vehicles be marked.**

Finally, I'd like to urge everyone who makes up "We the People" to engage this national conversation and to take action to ensure the lawlessness of this administration ends. Call your government leaders and hold them accountable to reining in these abuses.